

Remarks/Arguments:

The applicant and its representative have fully considered the Office Action of November 30, 2005. Preliminarily, it is noted that the currently pending Office Action indicates that it was issued in response to a communication filed 14 March 2005. This is believed to be in error as the Office Action of May 5, 2005 was issued in response to the communication filed 14 March 2005. The currently pending Office Action, it is believed, was issued in response to the Amendment filed by the applicant on September 6, 2005.

Turning now to the status of the claims, it is noted that claims 21-23, 25-27, and 41 are pending and the only independent claims, namely 21 and 41, have been slightly amended herein. Claims 6-9 and 28-40 have been cancelled as drawn to a non-elected invention pursuant to an earlier restriction requirement. These claims are cancelled without prejudice and the applicant expressly reserves its right to file them in a divisional continuation.

Claims 21 and 41 have both been amended to recite that the protrusions on the ring have "an outside diameter at least as great as the *outer diameter of the mounted stent . . .*" (emphasis added). The rejection under 35 U.S.C. § 102(e) using U.S. Patent No. 6,120,522 to Vrba et al. (Vrba) is therefore obviated and the withdrawal of this rejection is respectfully solicited for at least the reason set forth below.

As a preliminary matter, it is noted that the Examiner stated in the Office Action of November 30, 2005 that the "protrusions 186 [of Vrba] . . . have an outside diameter greater than the inner diameter of stent 138." The applicant respectfully submits that the claims as pending at that time did not recite that the protrusions have an outside diameter "greater than the inner diameter of the stent," but rather that the protrusions have an outside diameter "at least as great as the mounted stent" - not at least as great as the *inner diameter* of the stent." This limitation was read into the claim by the Examiner. It is respectfully submitted that the specification makes clear that the applicant intended that the "diameter" of the stent be the outside diameter of the stent. This is clear from the drawings and description. See, for example, FIGs. 17B and 18.

In this regard, the Examiner's attention is drawn to the recent *en banc* decision by the Court of Appeals for the Federal Circuit on the proper procedure for determining the meaning of

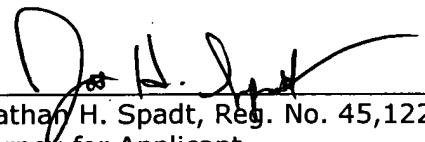
the words in a claim. *Phillips v. AWH Corp. et al.*, Appeal No. 03-1269, 1286 (Fed. Cir. 2005). The primary question addressed by the Court in *Phillips* was determining the "extent to which we should resort to and rely on a patent's specification in seeking to ascertain the proper scope of its claims." *Phillips v. AWH Corp. et al.*, 03-1269, 1286 (Fed. Cir. 2005). The Court in *Phillips* addressed the methodology used in *Texas Digital Systems, Inc. v. Telegenix, Inc.*, 308 F.3d 1193 (Fed. Cir. 2002) stating "[a]lthough the concern expressed by the court in *Texas Digital* was valid, the methodology it adopted placed too much reliance on extrinsic sources such as dictionaries, treatises, and encyclopedias and too little on intrinsic sources, in particular the specification and prosecution history." *Id.* The Court in *Phillips* went on to state that the approach given in *Texas Digital* "improperly restricts the role of the specification in claim construction." *Id.* The Court concluded by stating that it is "entirely appropriate . . . to rely heavily on the written description for guidance as to the meaning of the claims." *Id.*

With this in mind, the applicant submits that claims 21 and 41 as pending with the entry of the amendment filed March 14, 2005 were indeed neither anticipated nor obvious in view of any known prior art. In order to expedite prosecution, however, and in the interest of meeting the demand placed on it by the Patent and Trademark Office in this regard, the applicant has amended claims 21 and 41 as indicated above to still yet further clarify the invention:

Specifically, and as noted, claims 21 and 41 have both been amended to recite that the protrusions on the ring have "an outside diameter at least as great as the *outer diameter of the mounted stent . . .*" (emphasis added). Vrba, in contradistinction, does not teach such protrusions. Moreover, and as noted in the Remarks of the Amendment filed March 14, 2005, the protrusions which extend radially outward from the base part of the ring and beyond the outer diameter of the stent allow for reliable stent retention within the device. This is due to the fact that the protrusions extend all of the way through the open areas of the stent and thereby prevent longitudinal movement of the stent as the outer sheath is moved with respect to the stent and the inner shaft, as seen clearly in Figs. 17B and 18.

For at least this reason, claims 21 and its dependents, as well as claim 41, are neither anticipated nor obvious in light of any known prior art, especially Vrba. Withdrawal of this rejection is respectfully requested, along with an indication of allowance of claims 21-23, 25-27, and 41. The applicant is aware that the pending Office Action was made Final, but submits that no new search is necessary because the claims as pending after the September 6, 2005 amendment already led to a complete search of the art as the claims as pending then were clear and defined the invention adequately. If any question remains in this regard, the Examiner is cordially invited to contact the below-named signatory to discuss the application.

Respectfully submitted,



Jonathan H. Spadt, Reg. No. 45,122
Attorney for Applicant

JHS/ljr

Dated: January 30, 2006

P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

The Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. 18-0350 of any fees associated with this communication.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

January 30, 2006

